

OCT 17 2008

**IN THE UNITED STATES PATENT & TRADEMARK OFFICE**

Applicant: Beckman et al. : Cust. No.: 000027777  
Serial No. 10/815,004 : Group Art Unit: 3736  
Filed: March 31, 2004 : Examiner: Rene T. Towa  
For: MARKER DEVICE AND METHOD OF DEPLOYING A CAVITY MARKER  
USING BIOPSY DEVICE

Confirmation No. 1279

I certify this correspondence is being transmitted by facsimile to the United States Patent and Trademark Office on October 17, 2008.

/Gerry Gressel/  
Gerry Gressel

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION UNDER 37 CFR 1.181 TO WITHDRAW HOLDING OF ABANDONMENT**

Dear Sir:

A notice of abandonment for failure to pay the issue fee was mailed by the USPTO on 10/31/08.

This petition, submitted within 2 months of the notice of abandonment, is submitted with a faxed copy of the USPTO "Auto-Reply Facsimile Transmission" sheet showing the Issue Fee transmittal was in fact sent to the USPTO on September 9, 2008, and received by the USPTO.

A copy of the Issue Fee Transmittal, with Certificate of Facsimile Transmission, is also enclosed.

Withdrawal of the Holding of Abandonment is requested, as the abandonment was clearly a mistake on the part of the USPTO.

No fees are believed to be required.

10/815,004  
END5096USNP

If the office disagrees, please call the undersigned immediately.

/Gerry Gressel/  
Gerry Gressel, reg #34,342

Johnson & Johnson  
One Johnson & Johnson Plaza  
New Brunswick, NJ 08933-7003  
(513) 337-3535

- 2 -

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## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,004	03/31/2004	Andrew T. Beckman	END5096.0515521	1279

7590 10/13/2008  
 PHILIP S. JOHNSON  
 JOHNSON & JOHNSON  
 ONE JOHNSON & JOHNSON PLAZA  
 NEW BRUNSWICK, NJ 08933-7003

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J &amp; J PAT. DKT. SECTION

EXAMINER  
TOWA, RENE T

ART UNIT	PAPER NUMBER
3736	

MAIL DATE	DELIVERY MODE
10/13/2008	PAPER

## Notice of Abandonment

This application is abandoned in view of:

1. ☐ The applicant's failure to timely file a proper reply to the Office letter mailed on \_\_\_\_\_.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission date \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_ but it does not constitute a proper reply under 37 CFR 1.113(a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of:
    - (1) a timely filed amendment which places the application in condition for allowance;
    - (2) a timely filed Notice of Appeal (with appeal fee);
    - (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box e below).
  - (d) ☐ No reply has been received.
2. ☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission date \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
 The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_.  
 The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c) ☒ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawing have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

Petitions to revive under 37 CFR 1.137(a) or (b), or request to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch  
 Office of Data Management

FORM PTO-ABNO (Rev. 08/07)

**OCT 17 2008**

## Auto-Reply Facsimile Transmission



**Fax Sender at 7325242808**

9/9/2008 11:19:10 AM [Eastern Daylight Time]

1 (including cover page)

**Total Pages:**

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